

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION THREE

NEW WEST CHARTER MIDDLE
SCHOOL,

Plaintiff and Appellant,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT, et al.,

Defendants and Respondents.

B215777

(Los Angeles County
Super. Ct. No. BS115979)

ORDER MODIFYING OPINION

[NO CHANGE IN JUDGMENT]

THE COURT:

It is ordered that the opinion filed herein on August 19, 2010 is modified as follows:

1. On page 12, line 17, after “\$175,630.72,” insert new footnote 7, with the following text:

The difference is actually \$172,630.72. Neither party noticed the error.

The remaining footnotes are to be renumbered.

2. On page 24, lines 13 and 14, remove the citation to *Serrano v. Stefan Merli Plastering Co., Inc.* (2010) 184 Cal.App.4th 178, 184-185, and replace it with the following:

(*Adoption of Joshua S.* (2008) 42 Cal.4th 945, 951-952.)

3. On page 24, line 14, remove the “(*Id.* at p. 185.)” citation, and replace it with the following:

(*Los Angeles Police Protective League v. City of Los Angeles* (1986) 188 Cal.App.3d 1, 6.)

4. On pages 24 and 25, original footnote 17, remove the sentence reading, “In *Serrano v. Stefan Merli Plastering Co., Inc.*, *supra*, 184 Cal.App.4th at pp. 185-186, we recognized that some courts apply a de novo standard of review when the appellate court publishes an opinion, on the basis that the appellate court is in as good a position as the trial court to determine whether the legal right enforced meets the Code of Civil Procedure section 1021.5 criteria.” Replace it with the following:

In *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 427, the Supreme Court held that, when an appellate court publishes an opinion, the court of appeal may be in a better position than the trial court to determine whether an award of fees is appropriate, and may therefore make the determination in the first instance.

[There is no change in the judgment.]